

Unless a person is a supervised financial organization or has first obtained a license from the department, the person shall not engage in this state in the business of making small loans.

Persons wishing to make small loans (payday loans) must apply for a Small Loan License.

A license shall not be issued unless the department finds that the financial responsibility, character and fitness of the applicant, members or officers and directors of the applicant are such as to warrant belief that the business will be operated honestly and fairly within the purposes of the Indiana Uniform Consumer Credit Code.

The application for a small loan license must be accompanied by the following:

1. A CPA prepared audited or reviewed financial statement showing at least \$100,000 net worth with \$50,000 in liquid assets.
2. An application fee of \$2,000 plus \$1,000 for each branch location in Indiana after the first location.
3. Applicant must show minimum two (2) years finance related experience for anyone who will be managing an Indiana location.
4. If a corporation, a copy of Certificate of Authority to do business in Indiana from the Secretary of State.
5. If d/b/a, copy of assumed name certificate from County Recorder.
6. State Police Report of State of residence for each principal (officers/partners/owner/Indiana manager).
7. Credit Report for business and/or principals (unless you have audited financials).
8. Three reference letters, one must be a financial institution.
9. Copy of Indiana business plan.
10. Business resume for the manager, owner, partners, and all officers, as applicable.
11. List of other states where operating as a lender and/or broker.
12. Example of loan application.
13. Sample of a completed Note and Disclosures.

Attach a detailed explanation of the following:

- \* How loans will be made.
- \* Written description of the funding of the loan to the consumer.
- \* Security
- \* Estimated Average Loan.
- \* Will you retain servicing on the loans? If No, who will be servicing?
- \* Software the applicant proposes to use for disclosure and/or record keeping.
- \* Give full details as to how you will comply with requirement to verify customer's monthly net income. See IC 24-4.5-7-110 and 7-402.

Be sure to answer all the questions on Pages 4 & 5 of the application.

Loan license applications can be obtained on the Internet or by contacting the Consumer Credit Division of the Department of Financial Institutions (DFI).

The Indiana Uniform Consumer Credit Code Chapter 7 (IC 24-4.5-7) contains regulations concerning small loans.

## DEFINITIONS:

**"Small loan"** means a loan:

- (a) with a principal loan amount that is more than fifty dollars (\$50) and less than four hundred one dollars (\$401); and
- (b) in which the lender holds the borrower's check under an agreement, either express or implied, for a specific period before the lender:
  - (i) offers the check for deposit or presentment; or
  - (ii) seeks authorization to transfer or withdraw funds from the borrower's account.

**"Principal"** means the total of:

- (a) the net amount paid to, receivable by, or paid or payable from the account of the consumer; and
- (b) to the extent that the payment is deferred, the additional charges permitted by this chapter that are not included in subdivision (a).

**"Check"** has the meaning set forth in IC 26-1-3.1-104.

**"Renewal"** refers to a small loan that takes the place of an existing small loan by:

- (a) renewing;
- (b) repaying;
- (c) refinancing; or
- (d) consolidating;

a small loan with the proceeds of another small loan made to the same consumer by a lender.

**"Consecutive small loan"** means a new small loan agreement that the lender enters with the same consumer not later than seven (7) calendar days after a previous small loan made to that customer is paid in full.

**"Paid in full"** means the termination of a small loan through the payment of the consumer's check by the drawee bank or authorized electronic transfer, the return of a check to a consumer who redeems it for consideration, or any other method of termination.

**"Monthly net income"** means the income received by the consumer in the four (4) week period preceding the consumer's application for a small loan under this chapter and exclusive of any income other than regular net pay received, or as otherwise determined by the department.

## MAXIMUM CHARGES -

(1) Finance charges on the first one hundred dollars (\$100) of a small loan are limited to fifteen percent (15%) of the principal.

(2) Finance charges on the amount of a small loan greater than one hundred dollars (\$100) are limited to ten percent (10%) of the amount over one hundred dollars (\$100).

(3) The total amount of finance charges may not exceed thirty-five dollars (\$35).

## ADDITIONAL CHARGES

### Delinquency Charges

The parties may contract for a delinquency charge of not more than five dollars (\$5) on any installment not paid in full within ten (10) days after its scheduled due date.

A delinquency charge may be collected only once on an installment, however long it remains in default. A delinquency charge may be collected any time after it accrues.

### Returned Check Fee

An additional charge may be made not to exceed twenty dollars (\$20) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the consumer. This additional charge may be assessed one (1) time regardless of how many times a check may be submitted by the lender and dishonored.

## DISCLOSURES

For purposes of this section, the lender shall disclose to the consumer to whom credit is extended with respect to a small loan the information required by the Federal Consumer Credit Protection Act.

In addition to the requirements above, the lender must conspicuously display in bold type a notice to the public both in the lending area of each business location and in the loan documents the following statement:

**"WARNING:** A small loan is not intended to meet long term financial needs. A small loan should be used only to meet short term cash needs. Renewing the small loan rather than paying the debt in full will require additional finance charges. The cost of your small loan may be higher than loans offered

by other lending institutions. Small loans are regulated by the State of Indiana Department of Financial Institutions.

A consumer may rescind a small loan without cost not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a consumer must inform the lender that the consumer wants to rescind the small loan, and the consumer must return the cash amount of the principal of the small loan to the lender."

The notices must be in 14 point bold face type in the loan documents and not less than one (1) inch bold print in the lending area of the business location.

The following provisions apply to **licensees and unlicensed persons**.

A contractual agreement in a small loan transaction must include the language below in **14 point bold type**.

"IC 26-1-3, 1-502.5, IC 26-2-7, IC 34-4-30 (before its repeal), IC 34-24-3, and IC 35-43-5 apply to small loans only when a check is used to defraud another person. IC 24-4.5-3-404 does not apply to a small loan. (IC 24-4.5-7-409(2))"

The lender shall provide to each consumer a copy of the required loan documents **before the disbursement of the loan proceeds**.

## TERM

Except as provided below, a small loan may not be made for a term of less than fourteen (14) days.

After the consumer's third consecutive small loan renewal, another small loan may not be made to that consumer within seven (7) days after the date of the third consecutive small loan unless the new small loan is for a term of twenty-eight (28) days or longer.

## CONSUMER INCOME REQUIREMENT

A lender is prohibited from making a small loan to a consumer if the total payable amount of the small loan exceeds twenty percent (20%) of the consumer's monthly net income.

A small loan may be secured by only one (1) check or electronic debit per small loan. The check or electronic debit may not exceed the amount advanced to or on behalf of the consumer plus loan finance charges contracted for and permitted.

A consumer may make partial payments in any amount on the small loan without charge at any time before the due date of the small loan. After each payment is made on a small loan, whether the

payment is in part or in full, the lender shall give a signed and dated receipt to the consumer making a payment showing the amount paid and the balance due on the small loan.

The lender shall provide to each consumer a copy of the required loan documents before the disbursement of the loan proceeds.

A consumer may rescind a small loan without cost not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a consumer must:

- inform the lender that the consumer wants to rescind the small loan; and
- return the cash amount of the principal of the small loan to the lender.

**ATTORNEY'S FEES** - A lender may **NOT** contract for and receive attorney's fees.

**USE OF MULTIPLE AGREEMENTS** - A lender may not use multiple agreements with the intent to obtain a higher finance charge than would otherwise be permitted by the Indiana Uniform Consumer Credit Code or to avoid disclosure of an annual percentage rate.

**EXAMINATIONS** - The DFI, in order to determine whether the provisions of the Indiana Uniform Consumer Credit Code are being complied with by persons engaging in acts subject to that Article, may examine the books and records of persons and may make investigations of persons as may be necessary to determine compliance. The DFI shall determine the sufficiency of the records and whether the person has made the required information reasonably available.

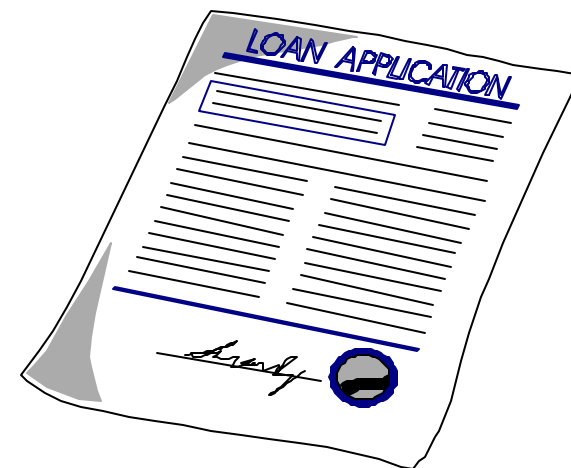
The records pertaining to any consumer credit transaction subject to the Indiana Uniform Consumer Credit Code shall be retained for two (2) years after making the final entry relating to the consumer credit transactions.

The DFI shall be given free access to the records wherever located. If the person's records are located outside Indiana, the records shall be made available to the department at a convenient location within Indiana, or the person shall pay the reasonable and necessary expenses for the department or its representative to examine them where they are maintained.

If you have any questions regarding small loans, contact the Consumer Credit Division of the Department of Financial Institutions or visit our Web Site.



# SMALL LOANS



## DEPARTMENT OF FINANCIAL INSTITUTIONS

Consumer Credit Division  
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317-232-3955  
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